



CITY OF CHARLOTTE

REAL ESTATE ACQUISITION

BROCHURE

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Notes

INTRODUCTION

The purpose of this brochure is to explain the rights and benefits of citizens affected by City of Charlotte public projects. If you are required to move as a result of a public project, you may be eligible for relocation advisory assistance services and payments.

The Charlotte community is continuing to draw more people and businesses. For the City to remain livable and prosperous, smart growth principles must focus on business retention and expansion, as well as redevelopment of the urban core and transit corridors.

These types of City of Charlotte projects, designed to benefit the public as a whole, can result in the need to acquire private property, and sometimes displace citizens from their homes or businesses. Private property rights are protected by both the State of North Carolina and the United States government. This brochure is written based on the Fifth Amendment of the Constitution, Uniform Relocation Act, North Carolina General Statutes and the Municipal Code of the City of Charlotte.

If you'd like to learn more about Charlotte's growth strategies, go to the City/County website, www.charmeck.org and click on "Charlotte City Council," then "Focus and Priorities."

GOVERNING LAWS

State, local and federal laws govern the acquisition of private property for public use. The government's right to engage in this type of acquisition is commonly known as "the power of eminent domain" or the power of "condemnation." This power is subject to protections from abuse. The second amendment to the Constitution guarantees just compensation.

On January 2, 1971, Public Law 91-646, the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970," (Uniform Act) was signed into law. The Uniform Act provides important protections and assistance for people affected by Federally funded projects. This law was enacted by Congress to ensure that people whose real property is acquired, or who move as a result of projects receiving Federal funds, will be treated fairly and equitably and will receive assistance in moving from the property they occupy.

The Uniform Act policies and procedures Chapter 49 of the Code of Federal Regulations Part 24 contain three parts: 1) Title I contains general provisions of the Uniform Act along with definitions. 2) Title II addresses relocation assistance items such as relocation advisory assistance and moving costs. 3) Title II also places requirements on States or agencies utilizing Federal funds in their programs. Title III defines real property acquisition policies.

The State of North Carolina enacted general statutes Chapter 40A (Eminent Domain) and 136 to govern the acquisition of private property for public use. The procedures provided by those chapters enable condemnors (agencies such as the City) to exercise the right of eminent domain. Further, Chapter 7, Article V, Section 7.81 of the Code of Ordinances of the City of Charlotte regulates and defines the eminent domain rights of the City.



In summary, the above referenced laws ensure that owners of real property acquired for public projects are treated fairly and consistently. They are designed to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence in land acquisition programs designed for the benefit of the public as a whole. **This brochure explains acquisition procedures.**

FIRST CONTACTS

Project size and complexity usually determine when and how you become informed about an upcoming public project. You might first read about a project in the newspaper or some other form of news media. Or perhaps City contractors, consultants, or employees may be making preliminary investigations in a proposed project area.

The City will conduct public meetings on larger projects and the general public will be invited. Nearby property owners typically get personal written invitations to project public meetings. Maps and plans may be available for inspection and personnel will be available to answer questions.



Soon after a definitive need for a project has been determined and plans have been prepared, all affected property owners will be contacted by a Real Estate Broker representing the City. These Real Estate Brokers are licensed by the State of North Carolina Real Estate Commission and were required to take real estate training and pass licensing examinations. Additionally, many of the Real Estate Brokers are members of the International Right of Way Association, which is a professional, non-profit organization dedicated to the advancement of right of way and land acquisition related occupations. All brokers have taken vigorous training classes pertaining to their profession.

Although you may be first contacted by mail, a Real Estate Broker will always offer to arrange a personal visit with you. The Broker will explain the nature of the proposed project and its effect on your property. The Broker may request a donation of the needed property interests based upon public benefit. Otherwise, an offer to purchase the real property interest will be presented in writing. You will have time to consider the offer and the Broker will contact you again to discuss the offer and answer any questions. All of your questions concerning the project should be directed to the City's Real Estate Broker.

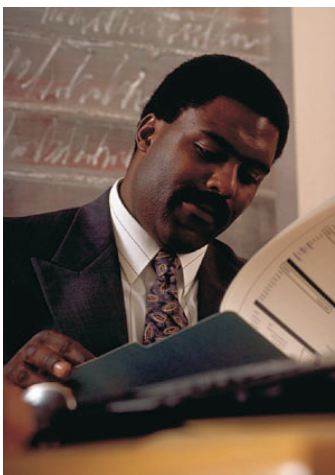
Should the acquisition of your property cause a need for your personal property to be relocated, a Relocation Agent will work with you to determine your relocation eligibilities. A separate brochure will be provided that explains the relocation assistance program.

PROPERTY VALUATION

Many projects benefit the property owners, and the public in general, and donations are routinely requested. However, some are for the greater benefit of the public to the detriment of an individual property owner or owners. Compensation must then be determined.

In an effort to offer fair compensation for your property, the City takes into consideration the many circumstances of the acquisition of real property interests. Great care is taken to ensure that all property owners are treated fairly and consistently. There are many accepted ways of valuing property and each is dependant upon the complexity of the proposed acquisition.

Valuations are prepared for minor and less intrusive acquisitions. The valuation will be prepared utilizing a wide variety of property and project information. Factors such as the size of the property, the size of the acquisition, the zoning, the assessed value, the property improvements, the income stream, past sales of the property, comparable sales of similar properties and other data will influence a valuation.



As an acquisition becomes more complex, additional steps are taken to accurately determine the amount of just compensation to be offered to an owner. A certified independent appraiser will then contact you to make an appointment to inspect your property. The appraiser will be responsible for estimating the fair market value for the acquisition. The appraiser's work will then be reviewed by a certified independent review appraiser and certified as just compensation by the City Appraisal Manager prior to the presentation of the offer to you by the Real Estate Broker.

You, or your designated representative, will be invited to accompany the appraiser on his inspection of the property. This provides you an opportunity to point out any unusual or hidden features of the property that the appraiser could overlook. At this time, you should also advise the appraiser if any of the following conditions exist:

- There are other owners.
- There are tenants on the property.
- There are items of real or personal property that belong to someone other than you on your property.

It would also be helpful to tell the appraiser about other properties in the area that have recently sold. Be sure to point out any issues that positively affect the value of your property. The appraiser will analyze all elements that may affect value and then make a determination of value based on the conditions of the property and the market on the date of the appraiser's final inspection.

BUILDINGS AND IMPROVEMENTS

Sometimes there are buildings or other improvements located in the area needed for a project. The City will value the improvements and offer to purchase such items that are considered as real estate assuming that they contribute to the property's highest and best use. This will also include items such as paving, landscaping, lighting, and fencing, among other items. Occasionally, only a portion of a building or other improvement will be in the area needed for the project. This could require the purchase and removal of the entire improvement.

TENANT OWNED ITEMS

Sometimes tenants own real property items or fixtures permanently affixed to the real estate. The City will make an offer to the tenant to purchase those items. However, the owner would first have to disclaim interest in the items. The value of the items is an amount that the improvement contributes to the market value of the whole property. The sum of the parts cannot exceed the whole. A tenant can negotiate the offer presented by the Real Estate Broker.

The majority of tenant owned items are considered personal property and would be relocated if located in the area of the acquisition.

PERSONAL PROPERTY

Items of personal property located in the area of the acquisition will be relocated in accordance with the City's relocation procedures. Should you have personal items in the area of the acquisition or have questions pertaining to relocation, please feel free to ask your Relocation Agent for a Relocation Brochure. Your Agent will offer you a full explanation of the relocation program.

PARTIAL ACQUISITIONS

The majority of the property interests the City purchases are partial acquisitions. In other words, the City does not buy the whole property. They only buy what they need for each specific project.

When buying only a portion of a property there may be an impact to the remaining property. The valuation will take into consider any detriment to value of the remaining piece caused by the portion being acquired.

Sometimes the remaining property is so small that it is rendered useless and has no economic value. If this is the case the City will offer to purchase the remaining property. However, you do not have to sell the remaining property unless you want to.

THE PURCHASE OF YOUR PROPERTY

As discussed previously, the Real Estate Broker will present an offer to purchase your property. After you have had time to consider the offer to purchase your property the Broker will request that you sign the necessary paperwork to sell the real property interest to the City. Several documents may be required as determined by the complexity of the acquisition, price and purpose. Simple donations or acquisitions may only require your signature on the document that conveys the real property interest.

More involved acquisitions will require additional paperwork such as



Internal Revenue Service (IRS) required 1099 forms. Without this form the city will not issue payment. The City is required to report certain land acquisitions, as defined by the IRS, to the IRS. It will be necessary for you to provide your social security (individuals) or FEIN number (business). Failure to provide a correct social

security or taxpayer identification number may result in civil or criminal penalties being imposed against the seller by the Federal Government. Should you receive a 1099 statement in the year following the acquisition, you will need to report the amount on your Federal and State income tax returns. Contact an accountant or the IRS for specific information.

Other documents that may be used to acquire a real estate interest include an option to purchase, an easement, or a deed. Your signature on these documents will affirm that you and the City are in agreement concerning the acquisition of the property, including the terms and conditions of the acquisition. If you are requested to sign an option to purchase, the City will, at a later time, notify you that they are exercising the option and will proceed to an actual real estate closing. The closing will usually be conducted by an attorney who will contact you to schedule a time convenient to you. Proceeds will be paid at the closing and you will be expected to sign the deed and other required documents at that time. Your payment will be net of any outstanding liens, judgments or taxes.

CLOSING EXPENSES

The City will pay most closing expenses including attorney fees, recording fees, transfer taxes, evidence of title, surveys, legal descriptions and other similar expenses necessary to convey the property to the City.

However, some expenses are the responsibility of you, the seller. These are expenses normally required to be paid by a seller in a real estate transaction, such as the pro rata share of real estate taxes.



SETTLEMENTS

If you are not in agreement with the City's offer to purchase your property, you need to tell your Real Estate Broker. Many times there are non-monetary issues that the Broker can address on your behalf. If your concern revolves solely around the amount of compensation you are encouraged to obtain your own appraisal as support for your argument. If the City feels it is in the best interest of all parties, they will consider a reasonable counter-offer supported by factual information such as an appraisal.



CONDEMNATION

If an agreement cannot be reached, the City can acquire the property by exercising its power of eminent domain. It will do this by instituting formal condemnation proceedings with the Mecklenburg County Superior Court. The City typically files the condemnation under NC General Statutes Chapter 136. Utilizing Chapter 136, the compensation the City has previously offered you will be deposited with the court and you will be notified of its availability. The City will take title to the area acquired for the project at this time. It is advised that you retain the representation of an appraiser and an attorney for this process.



DEFINITIONS

Acquisition

The process of acquiring property (real estate) or some interest therein. See the definition of real property.

Appraisal

An independent and impartial estimate of the monetary value of a property interest. The appraisal is supported by an analysis of relevant market data.

Condemnation

The legal process of acquiring private property for a public purpose through the power of eminent domain. Condemnation is usually not used until all attempts to reach a mutually satisfactory agreement through negotiations have failed.

Easement

In general, the right of one person to use all or part of the property of another person for some specific purpose such as a sewer or sidewalk. Easements can be permanent or temporary.

Eminent Domain

The right of government to acquire private property for public use. Just compensation must be paid for private property acquired.

Fair Market Value

The sale price that a willing and informed seller and a willing and informed buyer agree upon for a particular property.

Just Compensation

The amount paid to the owner of a property when it has been acquired under eminent domain. See Condemnation. Example: Property is condemned to construct a sewage treatment plant. The owner is entitled to just compensation equal to the fair market value of the property acquired.

Lien

An encumbrance against a property in which the property is the security for payment of a debt. Taxes, judgments and mortgages are liens.

Negotiations

The process used to reach amicable agreements with property owners for the acquisition of needed property. An offer is made for the purchase of property in person or by mail, and the offer is discussed with the owner.

Personal Property

In general, property that can be moved (such as furniture, lawn mower, etc.). It is not permanently affixed to, or a part of, the real property. Personal property is not usually purchased. It is moved if it is in the area of the acquisition of real property.

Qualified Appraiser

A person who is qualified to estimate the value of real and personal property based on education, training, experience, judgment of facts and the use of the formal appraisal processes. Qualified appraisers are licensed and certified.

Real Property

The land and everything growing on it, attached to it or erected on it but not including anything that may be severed from the land without injuring it.

Relocation Assistance

If improvements are considered personal property under state and federal law, the tenant-owner may be reimbursed for moving them under the relocation assistance provisions.

Uneconomic Remnant

The portion of property that remains after the City acquires the property needed for a program. That remainder has been determined by appraisal to have little or no value or utility to the owner. The City must offer to purchase a remnant, but the owner may refuse the offer and keep it.

If You Have Questions

This brochure briefly explains your rights and entitlements as an owner of real property, and the City of Charlotte's rights, entitlements and policies as a governmental agency. Should you have additional questions about acquisition or relocation assistance or the progress of the project, your inquiry should be directed to the Real Estate Broker who delivered this brochure.

City of Charlotte Engineering and Property Management
Real Estate Services Division
600 East Fourth Street, CMGC - 14th FL
Charlotte, NC 28202

For more information, questions or comments contact:

_____ Real Estate Broker

_____ Phone

_____ Email